

Serial No. 10/677,922

Attorney Docket No. IS01359ESG

**REMARKS/ARGUMENTS**

Claims 1 through 5 and 7 through 14 remain in this application. Claim 6 has been canceled without prejudice or disclaimer, and claims 1 and 9 have been amended.

Claims 1 through 5, 9 and 12 through 14 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,213,078 to Ferrell, et al. ("Ferrell, et al. patent"). Claims 1 through 5 and 7 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,633,152 to Sharrah, et al. patent ("Sharrah, et al. patent"). Claims 8 is rejected under 35 U.S.C. §103(a) as being unpatentable over the Sharrah, et al. patent in view of the Ferrell, et al. patent. Claims 10 and 11 are rejected under 35 U.S.C. §103(a) as being unpatentable over the Ferrell, et al. patent in view of U.S. Patent No. 4,728,157 to David, Jr. ("David, Jr., patent").

Claims 1 and 9 are hereby amended to include many of the limitations of claim 6, now canceled. Claims 1 and 9 as amended provide, *inter alia*, one or more barbed wing members coupled to the planar member and extending distally outward from the planar member, in which the barbed wing member or members support a pair of barbs extending perpendicularly from the barbed wing member(s). Support for the above added recitation is provided at page 4, lines 5 and 6, of the specification and shown in FIGs. 2 through 6. For example, in FIG. 2, barb 208 is shown extending perpendicularly from the barbed wing member 204.

The significance of having a pair of barbs extending perpendicularly from the barbed wing member(s) is apparent when analyzed in view of the problem to be solved, as described at

Serial No. 10/677,922

Attorney Docket No. IS01359ESG

page 2, lines 1 through 21, of the specification. The present invention is an improved latch for a rechargeable battery pack that provides a simpler assembly procedure and better resistance to harsh drop tests. Both the present invention and the prior art, as shown in FIG. 1, provide a latch for a rechargeable battery pack that permits a user to move a pair of barbs between extended and retracted positions. The extended position secures the battery pack, whereas the retracted position permits insertion and removal of the battery pack. The present invention has a simpler, robust structure relative to the prior art, but must include the same pair of barbs at the same position as the prior art in order to be compatible with existing rechargeable battery pack designs. Thus, the present invention provides the same pair of barbs using a unique structure that is simpler for assembly and more robust.

In contrast, the Ferrell, et al. patent, the Sharrah, et al. patent, and the David, Jr. patent do not describe the unique structure, i.e., one or more barbed wing members supporting a pair of barbs extending perpendicularly from the barbed wing member(s), required by claims 1 and 9 as amended. In addition, the above Office Action rejected claim 6 based on the Sharrah, et al. patent, but rejected base claim 1 and intervening claims 2 and 3 based on the Ferrell, et al. patent or the Sharrah, et al. patent. Thus, the Examiner appears to recognize that the language of claim 6 distinguished from the Ferrell, et al. patent. The language added to claims 1 and 9 is similar to the language of claim 6 and distinguishes from the Ferrell, et al. patent.

Likewise, the language added to claims 1 and 9, i.e., the barbed wing member or members support a pair of barbs extending perpendicularly from the barbed wing member(s), also distinguishes from the Sharrah, et al. patent. The Sharrah, et al. patent describes a latch

Serial No. 10/677,922

Attorney Docket No. IS01359ESG

member 80 having an upper end 81 that is controlled by user force, a mid-section that pivots about a pivot point 83, and an engaging projection 82 at the other end. FIG. 9 of the Sharrah, et al. patent also shows a protrusion connected to the left of the upper end 81, to the upper right of the spring 84. The Sharrah, et al. patent does not describe or suggest one or more barbed wing members and/or a pair of barbs, as required by claims 1 and 9 for the following reasons.

Claims 1 and 9 as amended provide, *inter alia*, that the barbed wing member is coupled to the planar member and supports a pair of barbs extending perpendicularly. Based on the above Office Action, it appears that the Examiner is interpreting the vertical section of the upper end 81 as being the planar member and the horizontal section (that coupled to pivot 83) and the vertical section between the horizontal section and the engaging projections 82 as being the insertion snap of claims 1 and 9 (see section 3 at the bottom of page 5 of the above Office Action). The Examiner has also interpreted the protrusion connected to the left of the upper end 81 as being a barb. Based on this interpretation, a barbed wing member is not shown in FIG. 9 or otherwise described by the Sharrah, et al. patent.

The above Office Action makes a confusing statement at the top of page 6, namely "... at least one barbed wing member coupled to the planar member, extending distally outward from the planar member (no. 80 in FIG. 9)." First, reference no. 80 refers to the entire latch member, not any particular part of the latch member. Second, FIG. 9 shows the protrusion as being directly connected to the upper end 81 with no elements there between, and the text of the Sharrah, et al. patent does not describe the protrusions at all, let alone any element at the upper part of the upper end 81. In any case, Sharrah, et al. patent does not describe or suggest any type

Serial No. 10/677,922

Attorney Docket No. IS01359ESG

barbed wing member, as required by claims 1 and 9 as amended. If the protrusion is interpreted as being the barbed wing member, then the Sharrah, et al. patent does not describe or suggest any type of barb, are required by claims 1 and 9 as amended.

The language added to claims 1 and 9 as amended further distinguishes from the David, Jr. patent. The above Office Action utilizes the David, Jr. patent to support its rejection of dependent claims 8, 10 and 11. Thus, it is apparent that the Examiner already recognizes that independent claims 1 and 9 distinguish from the David, Jr. patent by itself.

Since none of the above patents describe or suggest one or more barbed wing members that couple to a planar member and support a pair of barbs extending perpendicularly, as required by amended claims 1 and 9, the claims also distinguish from any combination of these patents. Therefore, claims 1 and 9 as amended distinguish patentably from the Ferrell, et al. patent, the Sharrah, et al. patent, the David, Jr., patent, and any combination of these patents.

It should be noted that the Sharrah, et al. patent does not describe any type of spring retention post coupled to the planar member, as required by claims 1 and 9. At page 7, lines 16 through 18, of the August 19, 2005, Office Action states that "... The walls of either side of element 84 in Fig. 9 act as retention posts for the spring, and therefore, they retain the spring so that the latching mechanism of the device can function properly." However, accepting this theory, the Sharrah, et al. patent would not, then, describe a planar member and a spring retention post as separate elements, as provided by claims 1 and 9. Instead, Sharrah, et al. would show a button member in which back side of this member supports a spring. This single element (which is a portion of the upper end 81, cannot be the planar member and the spring retention post,

Serial No. 10/677,922

Attorney Docket No. IS01359ESG

which couples to the planar member. Therefore, claims 1 and 9 further distinguish from the Sharrah, et al. patent.

Claims 2 through 5, 7, 8 and 10 through 14 depend from and include all limitations of independent claims 1 and 9 as amended. Therefore, claims 2 through 5, 7, 8 and 10 through 14 distinguish patentably from the Ferrell, et al. patent, the Sharrah, et al. patent, the David, Jr., patent, and any combination of these patents for the reasons stated above for claims 1 and 9.

In view of the above, reconsideration and withdrawal of the rejections of claims 1 through 5 and 7 through 14 are respectfully requested.

#### CONCLUSION

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. Also, no amendment made was for the purpose of narrowing the scope of any claim, unless Applicants have argued herein that such amendment was made to distinguish over a particular reference or combination of references.

The Commissioner is hereby authorized to deduct any additional fees arising as a result of this response, including any fees for Extensions of Time, or any other communication from or to credit any overpayments to Deposit Account No. 50-2117.

It is submitted that the claims clearly define the invention, are supported by the specification and drawings, and are in a condition for allowance. Applicants respectfully request that a timely Notice of Allowance be issued in this case. Should the Examiner have any


Serial No. 10/677,922

Attorney Docket No. IS01359ESG

questions or concerns that may expedite prosecution of the present application, the Examiner is encouraged to telephone the undersigned.

Respectfully submitted,  
Friedli, Charles W., et al.

Please forward all correspondence to:  
Motorola, Inc.  
Law Department (HDW)  
600 North US Highway 45, AS437  
Libertyville, IL 60048

 05/05/06  
Hisashi D. Watanabe Date  
Attorney for Applicant(s)  
Registration No. 37,465  
Telephone: (847) 523-2322  
Facsimile: (847) 523-2350